

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: John A. Russo
City Manager

Date: January 17, 2012

Re: Adopt a Resolution Authorizing Examination of Sales, Use and Transactions
Tax Records in Connection with City Claims Against the State of
California

BACKGROUND

On June 5, 2009 the City of Alameda signed an Agreement with Holland & Knight LLP authorizing advice and representation in connection with the City's claims against the Board of Equalization. These services include examining sales and use tax transactions with the California State Board of Equalization.

DISCUSSION

Section 7056 of the State of California Revenue and Taxation code specifically limits the disclosure of confidential taxpayer information contained in the records of the State Board of Equalization. This section sets forth the conditions under which a City may authorize persons other than City officers and employees to examine State sales and use tax records and requires a resolution be passed to specify those City employees and any outside consultants, such as Holland & Knight LLP, who are authorized to examine these records.

FINANCIAL IMPACT

There is no impact to the General Fund from the adoption of the resolution.

RECOMMENDATION

Adopt a resolution authorizing Examination of Sales, Use and Transactions Tax Records in connection with City Claims against the State of California.

Respectfully submitted,



Fred Marsh
Controller

CITY OF ALAMEDA RESOLUTION NO. _____

AUTHORIZING EXAMINATION OF SALES, USE AND TRANSACTIONS
TAX RECORDS IN CONNECTION WITH CITY CLAIMS AGAINST THE
STATE OF CALIFORNIA

WHEREAS, the City of Alameda previously entered into a contract with the State Board of Equalization to perform all functions incident to the administration and collection of local sales, use and transactions taxes; and

WHEREAS, the City Council of the City of Alameda deems it desirable and necessary for authorized representatives of the City to examine confidential sales, use and transactions tax records of the State Board of Equalization pertaining to sales, use and transactions taxes collected by the Board for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales, use and transactions tax records of the Board.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Alameda resolves as follows:

Section 1. That the City Manager, or other officer or employee of the City designated in writing by the City Manager to the State Board of Equalization (Board), is hereby appointed to represent the City of Alameda with authority to examine sales, use and transactions tax records of the Board pertaining to sales, use and transactions taxes collected for the City by the Board pursuant to the contract between the City and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales, use and transactions taxes by the Board pursuant to that contract.

Section 2. That the City Manager, or other officer or employee of the City designated in writing by the City Manager to the Board, is hereby appointed to represent the City with authority to examine those sales, use and transactions tax records of the Board, for purposes related to the following governmental functions of the City: City administration, revenue management and budgeting, community and economic development, and business license tax administration. The information obtained by examination of Board records shall be used only for those governmental functions listed above.

Section 3. That Holland & Knight LLP is hereby designated to examine the sales, use and transactions tax records of the Board pertaining to sales, use

Approved as to Form

City Attorney

and transactions taxes collected for the City by the Board. The person or entity designated by this section meets all of the following conditions:

(a) has an existing contract with the City to examine the aforementioned sales, use and transactions tax records;

(b) is required by that contract to disclose information contained in, or derived from, those sales, use and transactions tax records only to an officer or employee authorized under Section 1 or 2 of this resolution to examine the information;

(c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and

(d) is prohibited by that contract from retaining the information contained in, or derived from those sales, use and transactions tax records, after that contract has expired.

The information obtained by examination of Board records shall be used only for purposes related to the collection of City sales, use and transactions taxes by the Board pursuant to the contract between the City and the Board and for purposes relating to the governmental functions of the City listed in section 2 of this resolution.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 17th day of January, 2012, by the following vote to wit:

AYES

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this 17th day of January, 2012.

Lara Weisiger, City Clerk
City of Alameda